

TAB 3

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

_____ X
THE CITY OF HUNTINGTON, : Civil Action
Plaintiff, : No. 3:17-cv-01362
v. :
AMERISOURCEBERGEN DRUG :
CORPORATION, et al., :
Defendants. :
_____ X
CABELL COUNTY COMMISSION, : Civil Action
Plaintiff, : No. 3:17-cv-01665
v. :
AMERISOURCEBERGEN DRUG :
CORPORATION, et al., :
Defendants. :
_____ X

BENCH TRIAL - VOLUME 29
BEFORE THE HONORABLE DAVID A. FABER, SENIOR STATUS JUDGE
UNITED STATES DISTRICT COURT
IN CHARLESTON, WEST VIRGINIA

JUNE 17, 2021

1 tremendous push in the 90s and the early 2000s to treat pain
2 with opioids because there was an emphasis at the time on
3 the undertreatment of pain, correct?

4 **A.** I'm not sure I would say that that was the medical
5 profession that moved in that direction, but I think -- I
6 would not say that.

7 **Q.** Well, you are familiar, are you not, with a concept of
8 pain as the fifth vital sign?

9 **A.** I am.

10 **Q.** And you observed that concept being promoted by
11 institutions such as JCAHO, which is the Joint Commission on
12 Hospital Accreditation, correct?

13 **A.** Yes.

14 **Q.** And, in your experience, once medical bodies said we
15 will say that pain is the fifth vital sign and we will
16 assess pain at every patient encounter, that's the way it
17 was whether individual doctors thought it was a good idea or
18 not, right?

19 **A.** I think if you were practicing medicine in -- if you
20 didn't -- weren't in your own private practice where you
21 could establish your own policies and norms, but if you were
22 working for a hospital, say, or a large organization that
23 had adopted these new ways of thinking about opioid
24 medications, or narcotics, we used to call them, then I
25 think you would have felt pressure to abide by those new

1 regulations or new recommendations.

2 However, for example, in my clinic, those questions
3 were asked by the medical assistant as the patient came in
4 and took their other four vital signs and asked them if they
5 needed any refills.

6 So, that's what I'm saying. I don't think this was
7 something that I would say was adopted widely by the medical
8 community. Certainly, I did not ask every patient whether
9 they had pain or not because people tell you when they have
10 pain.

11 **Q.** Dr. Feinberg, do you recall giving a deposition in this
12 case on September 2nd, 2020?

13 **A.** I don't remember all the details, but I know we had
14 one.

15 **Q.** And you were under oath during that deposition,
16 correct?

17 **A.** Yes.

18 **Q.** And you testified truthfully during your deposition,
19 correct?

20 **A.** And I testified --

21 **Q.** You testified truthfully during your deposition?

22 **A.** Yes. I hope so.

23 MS. JASIEWICZ: Mr. Huynh, if we could please put
24 up the deposition on Page 111, Line 14. And it goes on to
25 the next page, also Line 14.